

**MEMORANDUM OF AGREEMENT
BETWEEN THE UNITED NATIONS
AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA
FOR THE CONTRIBUTION OF PERSONNEL
TO THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA**

WHEREAS the United Nations Security Council, in its resolutions 808 (1993) of 22 February 1993 and 827 (1993) of 25 May 1993, decided to establish an international tribunal for the sole purpose of prosecuting persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia between 1 January 1991 and a date to be determined by the Security Council upon the restoration of peace (hereinafter "the International Tribunal");

WHEREAS by paragraph 5 of resolution 827 (1993) of 25 May 1993 the United Nations Security Council urged States and intergovernmental and non-governmental organizations to contribute funds, equipment and services to the International Tribunal, including the offer of expert personnel;

WHEREAS the United Nations Security Council, in its resolution 1244 (1999) of 10 June 1999 decided on the deployment in Kosovo, under United Nations auspices, of international civil and security presence;

WHEREAS the United Nations Security Council, in its resolution 1244 (1999) of 10 June 1999 demanded full cooperation by all concerned, including the international security presence, with the International Tribunal;

WHEREAS the Secretary-General may accept type II gratis personnel on an exceptional basis in accordance with the conditions established by the General Assembly in its resolution 51/243 of 15 September 1997 and guidelines approved by the General Assembly in its resolution 52/234 of 26 June 1998;

WHEREAS under General Assembly resolution 51/243, on 9 June 1999 the Secretary-General proceeded to approve a request of the Prosecutor of the International Tribunal to accept experts to provide temporary and urgent assistance for the specialized functions as identified by the Prosecutor, for a period of six months.

WHEREAS the Government of the United States of America (hereinafter: "the Government") offered to make available to the United Nations the services of qualified personnel to assist, in accordance with the terms of this Memorandum of Agreement;

NOW THEREFORE the United Nations and the Government (hereinafter: "the Parties") have reached the following understanding:

ARTICLE I

OBLIGATIONS OF THE GOVERNMENT

1. The Government agrees to make available to the International Tribunal for the duration and purposes of this Agreement the services of expert personnel (hereinafter: "U.S. Personnel") listed in annex I hereto. Changes and modifications to the Annex may be made with the agreement of the Parties.
2. The Government undertakes to pay all expenses in connection with the services of the U.S. Personnel, including salaries, travel costs to and from the location where the U.S. Personnel are based, and allowances and other benefits to which they are entitled, except as hereinafter provided. In this regard, annual leave may be taken by U.S. Personnel in accordance with their terms of service with the Government but may not exceed leave entitlements of staff members. Accordingly, U.S. Personnel accepted for a period of six months or less may be granted leave up to a maximum of one and one half days for each full month of continuous service. U.S. Personnel accepted for a period of more than six months and U.S. Personnel whose services are extended beyond six months may be granted leave up to a maximum of two and one half days for each full month of continuous service. Leave plans must be approved in advance by, or on behalf of, the head of the United Nations department or office concerned.
3. The Government undertakes to ensure that during the entire period of service under this Agreement, the U.S. Personnel are covered by adequate medical and life insurance, as well as insurance coverage for service-incurred illness, disability or death, with extended war risk coverage.

ARTICLE II

OBLIGATIONS OF THE UNITED NATIONS

1. The United Nations shall, as appropriate, provide the U.S. Personnel with office space, support staff and other resources necessary to carry out the tasks assigned to them.
2. Costs incurred by U.S. Personnel undertaking official travel in the discharge of their functions, in so far as not provided by the international civil and security presences deployed under United Nations auspices in Kosovo, shall be paid by the United Nations on the same basis as costs incurred by staff members, including payment of daily or mission subsistence allowance, as applicable.
3. The United Nations does not accept any liability for claims for compensation in respect of illness, injury or death of the U.S. Personnel, arising out of or related to the provision of services under this Agreement, except where such illness, injury or death results directly from the gross negligence of the officials or staff of the United Nations. Any amounts payable by the United Nations shall be reduced by amounts of any coverage under the insurance referred to in Article I, section 3, of this Agreement.

ARTICLE III

OBLIGATIONS OF THE AMERICAN PERSONNEL

The Government agrees to the terms and obligations specified below, and shall, as appropriate, ensure that the U.S. Personnel performing services under this Agreement comply with these obligations:

- (a) The U.S. Personnel shall perform their functions under the authority, and in full compliance with the instructions of the Prosecutor of the International Tribunal, and any person acting on his or her behalf;
- (b) The U.S. Personnel shall undertake to respect the impartiality and independence of the United Nations and shall neither seek nor accept instructions regarding the services performed under this Agreement from any Government or from any authority external to the International Tribunal;
- (c) The U.S. Personnel shall refrain from any conduct which would adversely reflect on the United Nations and shall not engage in any activity which is incompatible with the aims and objectives of the United Nations;
- (d) The U.S. Personnel shall comply with all rules, regulations, instructions, procedures or directives issued by the United Nations and the International Tribunal;
- (e) The U.S. Personnel shall exercise the utmost discretion in all matters relating to their functions and shall not communicate, at any time, without the authorization of the Prosecutor of the International Tribunal, to the media or to any institution, person, Government or other authority external to the United Nations, any information that has not been made public, and which has become known to them by reason of their association with the United Nations. They shall not use any such information without the written authorization of the Prosecutor of the International Tribunal, and in any event, such information shall not be used for personal gain. These obligations do not lapse upon expiration of this Agreement;
- (f) The members of the U.S. Personnel shall sign an undertaking in the form attached to this Agreement in Annex II.

ARTICLE IV

LEGAL STATUS OF THE U.S. PERSONNEL

1. The U.S. Personnel shall not be considered in any respect as being officials or staff of the United Nations.

2. While performing functions for the United Nations, the U.S. Personnel shall be considered as "Experts on Mission" within the meaning of Article VI, Sections 22 and 23, of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946.

ARTICLE V ACCOUNTABILITY

1. Unsatisfactory performance, or failure to conform to the standards of conduct set out above may lead to termination of service, for cause, at the initiative of the United Nations. One month notice shall be given in such cases.
2. Any serious breach of the duties and obligations that, in the view of the Secretary-General, would justify separation before the end of the notice period will be immediately reported to the Government, with a view to obtain agreement on an immediate cessation of service. The Secretary-General may decide to limit or bar access to United Nations premises by the individual involved when the circumstances so warrant.
3. The Government will reimburse the United Nations for financial loss or for damage to United Nations-owned equipment or property caused by U.S. Personnel provided by the Government if such loss or damage (a) occurred outside the performance of services with the United Nations, or (b) arose or resulted from gross negligence or wilful misconduct or violation or reckless disregard of applicable rules and policies by such U.S. Personnel.

ARTICLE VI THIRD-PARTY CLAIMS

The United Nations shall be responsible for dealing with claims by third parties where the loss of or damage to their property, or death or personal injury, was caused by the actions or omissions of the U.S. Personnel in the performance of services to the United Nations under the agreement with the Government. However, if the loss, damage, death or injury arose from gross negligence or wilful misconduct of the U.S. Personnel provided by the donor, the Government shall be liable to the United Nations for all amounts paid by the United Nations to the claimants and all costs incurred by the United Nations in settling such claims.

ARTICLE VII CONSULTATION

The United Nations and the Government shall consult with each other in respect of any matter that may arise in connection with this Agreement.

**ARTICLE VIII
SETTLEMENT OF DISPUTES**

Any disputes, controversy or claim arising out of, or relating to, this Agreement shall be settled by negotiation or other mutually agreed mode of settlement.

**ARTICLE IX
ENTRY INTO FORCE; DURATION AND TERMINATION**

The Agreement shall enter into force upon ..., and shall remain in force for 6 months unless terminated earlier by either Party upon one month's written notice to the other Party. The Agreement may be extended with the consent of both Parties on the same conditions and for a further agreed period.

**ARTICLE X
AMENDMENT**

This Agreement may be amended by written agreement of both Parties. Each Party shall give full consideration to any proposal for an amendment made by the other Party.

IN WITNESS WHEREOF, the respective representatives of the United Nations and the Government of the United States of America have signed this Agreement.

DONE in New York, this 2nd day of July in the year 1999, in two originals in the English language.

FOR THE UNITED NATIONS

FOR THE GOVERNMENT OF
THE UNITED STATES OF
AMERICA

Rafael Saliz

Caroleen L. Wilson

ANNEX I - United States Personnel

The following is a list of Forensic Investigation Specialists. Duration of their function will be four months.

1. Andrew Baker
2. A. Marzouk
3. Grant Graham
4. Bill Rodriguez
5. Stanley Moody
6. Michael Harrison
7. Robert James Craig
8. Beverly Felty
9. C.J. Freihofer
10. Lee W. Harbaugh
11. Philip Kissane
12. John W. Landman
13. Raymond J. Lyons
14. William J. McCarthy
15. Roger Nisley
16. Charles B. Pierce
17. Martin Ritzman
18. Michael J. Sackett
19. Michael E. Thomas
20. Michael R. Toulouse
21. Arthur J. Zarone
22. Robert Anderson Jr
23. James Yacone
24. Pedro Castro
25. Jimmy Jacobs
26. Howard Metts
27. Todd McCall
28. Gary Reinecke
29. Richard Allen Berry
30. Charles Brennan
31. Edward Montooth
32. Steve Grantham
33. Allyson Simons
34. Carl Gregory
35. Michael Hughes
36. George Bauries
37. William R. Craig
38. Steven J. Francke
39. Jeffrey Jesse Franks
40. James D. Harper
41. Daniel P. Powers
42. Kennth R. Werstak
43. Michael Baker
44. Jeffrey Bell
45. Cyrus Bowman
46. John Adams
47. Tara A. Bloesch
48. Brian R. Boetig
49. Douglas R. Edmonson
50. Kevin Finnerty
51. Elisa Foster
52. D. J. Hathaway
53. Charles E. Hoyt
54. Thomas F. O'Connor
55. Coleman Bates Jr.
56. Ronald Dunnivan
57. Mary Ellen Keogh
58. Paul Mallett Jr.
59. Margaret Samuelle
60. Robert L. Spell

ANNEX II UNDERTAKING

I, the undersigned, as a member of the U.S. Personnel made available by the Government of the United States of America to the United Nations pursuant to the Memorandum of Agreement between the United Nations and the Government of the United States of America for the Contribution of Personnel to the International Criminal Tribunal for the former Yugoslavia, hereby undertake to abide by the following:

- (a) I understand that, as a member of the U.S. Personnel, I shall not be considered in any respect as being an official or a staff member of the United Nations;
- (b) I further understand that, while performing functions for the United Nations, I will be considered as an "Expert on Mission" within the meaning of Article VI, Sections 22 and 23, of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946;
- (c) I shall perform my functions under the authority, and in full compliance with the instructions of, the Prosecutor of the International Tribunal, or any person acting on his or her behalf;
- (d) I shall respect the impartiality and independence of the International Tribunal and shall not seek nor accept instructions regarding my functions as a member of the U.S. Personnel from any Government or from any authority external to the International Tribunal;
- (e) I shall refrain from any conduct which would adversely reflect on the United Nations and shall not engage in any activity that is incompatible with the aims and objectives of the United Nations or the exercise of my functions;
- (f) I shall exercise the utmost discretion in all matters relating to my functions and shall not communicate, at any time, without the authorization of the Prosecutor of the International Tribunal to the media or to any other institution, person, Government or other authority external to the United Nations, any information that has not been made public, and which has become known to me by reason of my functions. I shall not use any such information without the authorization of the Prosecutor of the International Tribunal and, in any event, such information shall not be used for personal gain. These obligations do not lapse upon termination of my assignment;

- (g) I shall comply with all rules, regulations, procedures, instructions or directives issued by the United Nations and the International Tribunal.

Name printed in block letters

Signature

Date